

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No.1 of 1998

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For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

1 to 5 : No

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CHAUDHRY GOBARBHAI VELJIBHAI

Versus

ELECTION OFFICER AND DISTRICT REGISTRAR

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Appearance:

MR PK JANI for Petitioner

GOVERNMENT PLEADER for Respondent No. 1

MR PK SHUKLA for Respondent No. 2

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CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 12/03/98

ORAL JUDGEMENT :

This petition challenges the rejection of the nomination form filed by the petitioner for elections to Agricultural Produce Market Committtee ("APMC" for brevity), Mehsana. The petitioner, a member of the Managing Committee of Mehsana Jilla Sahkari Kharid Vechan Sangh Limited, was included in the final list of voters

at serial no.29. The petitioner had submitted nomination form as a candidate from amongst cooperative marketing societies and along with the form he had produced a certificate stating that the petitioner is a member of Gokalgadh Juth Telibiya Utpadak Sahkari Mandal Limited. Respondent no.1 - District Registrar, however, rejected the nomination form by his order dated 29.12.1997, on the ground that the petitioner had not produced authorisation from the marketing society along with the nomination form.

2. When the petition came up for hearing, this Court (Coram : R.M. Doshit, J.), on 1.1.1998, admitted the petition and granted mandatory interim relief in terms of para 15 (B), directing respondent no.1 to include the name of the petitioner as a candidate for the election of APMC, Mehsana. Thereafter, the elections were held on 12.1.1998 and the results were declared on 13.1.1998.

3. At the hearing of the petition today, the Court is informed that the petitioner has been elected as a member of the APMC from the aforesaid constituency. It is further submitted that in the case of Vishnubhai K. Thaker v. District Registrar & Election Officer for Agricultural Produce Market Committee of Sidhpur and another, 1996 (2) GLH 196, this Court had an occasion to deal with an identical question where a nomination form of a candidate was rejected as authorisation form was not produced from the society. After hearing the parties in that case, this Court held as under :

"As discussed above, there is no rule requiring the nominee of a society included in the final voters' list to produce any nomination of the society for the purpose of contesting at the election. In view of this legal position, the first defence of the respondents cannot be accepted."

In that case also the petitioner was permitted to contest as a candidate. Since this matter is squarely covered by the aforesaid decision of this Court, the petition is allowed and the impugned decision at Annexure 'G' to the petition rejecting the petitioner's nomination form is declared as illegal and is quashed and set aside. It is accordingly declared that the petitioner's nomination form was valid.

4. The petition is allowed accordingly. Rule is made absolute. No order as to costs.

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